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IN THE
SUPREME COURT OF THE UNITED STATES

OCTOBER TERM, 1986

No. _____

WILLIAM T. HOUGH, ESQ., PETITIONER

v.

WILLIAM DAVID KISS et al.

Counterclaimant-Respondent

PETITION FOR WRIT OF CERTIORARI TO
(1) THE SUPREME COURT OF NEW JERSEY WHICH DENIED PETITION FOR CERTIFICATION, AND
(2) THE APPELLATE DIVISION OF THE SUPERIOR COURT OF NEW JERSEY, WHICH AFFIRMED ON THE MERITS, THE LAST COURT TO RULE ON THE MERITS

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EDITOR'S NOTE

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QUESTIONS PRESENTED FOR REVIEW

1) Is injurious prejudice, either intentional and/or unintentional but factually, prejudicially directed against the attorney-Petitioner (officer of the Court) as a back-lash, by arbitrary affirmance in the face of undeniable fact of denial of due process by denial of requirement for proximate cause, and/or in the trial court's overrulings of the Petitioner's repeated objections that no proximate cause had been shown, as constituting "plain constitutional error"?

2) Did the Appellate Court (by its comments) in-effect admit there to be lack of showing of proximate cause, i.e. "plain constitutional error"?

3) Was there or was there not trial

evidence of proximate cause shown by Counterclaimant-Respondent for alleged damages to Countercalimant-Respondent?

4) Is there reasonable evidence of record, that a compromise verdict was in fact rendered by the jury?

5) Was there violation of due process against Petitioner resulting from denials of requirement for evidence on and proof of proximate cause by the Counterclaimant-Respondent.

6) Did Petitioner (repeatedly) object in the trial Court, against entry of evidence because of lack of showing of proximate cause, in alleged dollar-amount damages to Counterclaimant-Respondent?

7) Does the cummulative effect of the

trial court's instructions to the jury, taken together with overrulings of the Petitioner's repeated objections to lack of showing of proximate cause, constitute trial error resulting in denial of due process to Petitioner and/or coinstitute "compromise verdict".

8) Is the "evidentiary record" of the trial court contrary-to comments and inferences made by the New Jersey Superior Court-Appellate Division (last decision on the merits)?

9) Does the trial court evidence "prove" that the appellate court "errored" in its allegation that the counterclaimant-Respondent limited its damages to expenses of the Chicago show?

10) Are "important questions" and "doubtful determination" here involved?

11) Does trial court evidence show that Counterclaimant-Respondent admitted there to be "lack" of proximate cause and/or of defense against earlier unpaid invoices of Petitioner?

12) Are the appellate court's "conjucturing"comments re what the expert witness "might" have testified to any one or more of -- immaterial and/or erroneous and/oradmission by that court that such supporting evidence of proximate cause does not exist in the record.

13) Did Counterclaimant-Respondent admit that the "machine" was ready for demonstration several months before the allegedly damaging copyright-advisory letter, and that the list of bills of alleged damages included development and other promoitional costs as well as included (listed) prior amounts paid Petitioner before the date of the alleged damaging copyright-letter?

14) Might the inflated size of the alleged damages-figures, including past payments to Petitioner prior to the allegely-damaging advisory letter, reasonably have served to mislead the Jury as to possible legitimate figures included in the non-itemized (no description of nature of services) list of dollar amounts of alleged damages, potentially contributing to a compromise verdict?

INDEX

Item	Page
Index	i
Citations	i - ii
Caption	1 - 2
Prayer	2
Opinion below	3
Jurisdiction	3 - 6
Questions Presented and Petitioner's Arguments	6 - 41
Subtopics:	
(1) BROADLY, MATTERS AT STAKE ---	6 - 8
(2) JURY MISLED BY APPELL.-ADMITTED ERROR ---	9 - 11
(3) TRIAL RECORD REFUTES OTHER DAMAGES-BASIS ---------	11 - 17
(4) TRIAL COURT AND APPELLATE COURT ERRORS ---	17 - 25
(5) RESPONDENT'S ADMISSION OF SOLE DAMAGE BASIS ---	25 - 31
(6) APPELLANT'S TIMELY TRIAL OBJECTIONS OVERRULED --	31 - 32
(7) COMPROMISE VERDICT -- ERRONEOUS JURY INSTRUCTION ---	32 - 37
(8) APPEL. COURT'S IRRELEVANT ERRONEOUS CONJECTURE ---	37
(9) APP.CRT. NON-RESPONSIVE TO APPELLANT'S ARGUMENTS ---	37 - 40
(10) SUMMARY/CONCLUSION ---------	40 - 41

(11) Appendices:

1) Appellate court decision

2)A Order (Appell.Dv.)denying reconsideration;

2)B Order (of NJ Supreme Court) denying certification

3) Trial court judgment

4) Trial court transcript excepts:

4)A: 3-18-85; p.15
4)B: 3-18-85; p.37
4)C: 3-18-85; p.49
4)D: 3-18-86; pp.22-27
4)E: 3-18-85; p.30
4)F: 3-38-85; p.32
4)G: 3-18-85; pp.40-41
4)H: 3-18-85; p.43
4)I: 3-18-85; p.161
4)J: 3-18-85; p.168
4)K: 3-18-85; p.185

CITATIONS

Case	Page
Gerner v. Louisiana, 368 US 157, 163 ----	10
Gorga v. Indiana and Michigan Electric Do, 338 F2d 623 (6th Cir. 1964) ------	36
Greenberg v. Stanley, 30 NJ 45 (1959) -----	30
Hagar v. Reclamation Dist., 111 US 701 -----	15
Hoppe v. Ranzini, 158 NJ Super. 158, 164 (App. Div. 1978) --	17
Kopec v. Kakowsiky, 34 NJ 243 (1962) --	30
Lamb v. Barbour,	

188 NJ Super.
at 12, 16 --- 11, 16, 17
Montana v. Kennedy,
366 US 308 --------- 24
Pearsall v. Great
Northern R.R. Co.,
161 US 646 ------ 16
Ralley v. Ohio,
360 US 423, 436 --- 4
Rommel v. U.S. Steel Corp.,
66 NJ Super. 39, 80
(App. Div. 1961) -- 12, 13, 24
Schwartz v. North Jersey
Building Contractors Corp.,
38 NJ 9 (1962) --- 30
Thompson v. City of
Louisville, 362 US 199 -- 7
Washington v. United
States, 357 US 348 -- 24
Williams v. Lee,
358 US 217, 218 ------ 15

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Prayer:

The Petitioner William T. Hough, Esq., respectfully prays that a writ of certiorari issue to review the judgment and opinion on the merits, of the Appellate Division of the Superior Court of New Jersey, from which a petition of certification (certiorari) to the Supreme Court of New Jersey was denied without decision on the merits, the petition for certification having been denied on Sep. 9, 1986.

OPINION

Relevant portions of the opinion on the merits, of the Appellate Division of the Superior Court of New Jersey, not yet reported, and of the order-denying petition for certification (certiorari) of the Supreme Court of New Jersey, are quoted in arguments of Petitioner. No opinion was rendered onthe merits by the Supreme Court of New Jersey.

JURISDICTION

Following affirming opinion and judgment on merits both on Mar. 7, 1986, and denial of Petitioner-Appellant's motion for rehearing denied without opinion, decided March 27, 1986 and entered on April 3, 1986 by the Appellate Division of the Superior Court of New Jersey, thereafter the Supreme Court of NJ denied petition for certification, decided on Sep. 5, filed on Sep. 9, 1986: "A petition for certification of the judgment in A-3979-84T1 having been submitted to this Court, and the Court having considered the

same; It is ORDERED that the petition for certification is denied with costs. Witness, the Honorable Robert L. Clifford, Presiding Justice at Trenton, this 5th day of September, 1986." As quoted below and in Petitioner's Arguments, the final written opinion on the merits recognized and dealt with all matters of denial of due process re denial of proximate cause and re fact of a compromise verdict giving the Unites States Supreme Court jurisdiction as held in Raley v. Ohio, 360 US 423, 436, stating:

"There can be no question as to the proper presentation of a federal claim when the highest court passes on it." The Appellate court decision stated, on decision page 2, -- first paragraph:

"Plaintiff has raised two points on this appeal. First he claims that the jury returned a compromise verdict ...", and -- second paragraph:

"Plaintiff's second point is that defendant failed to prove a proper causal relationship between plaintiff's alleged malpractice and various items of damage." and -- last paragraph:

"Affirmed."

Jurisdiction is invoked under each of Sec. 25 of the Judiciary Act of 1789 and 28 USC 1257(2) as an appeal from the highest court of the State of New Jersey, as raising substantial federal question(s) evidencing shocking, unjust, unreasonable and plainly wrong decision(s) and gross injustice against Petitioner-Appellant and indirectly against all future attorneys and/or judges, constituting plain constitutional error, including the blatant affirmance in the face of lack of due process admitted by the Appellate court to be lacking by virtue of

trial court errors, blatently justified by the Appellate court's fabricated erroneous reasoning NOT based on and contrary to the evidentiary record. Jurisdiction is particularly justified by permissive sham proceedings making a mockery of constitutional guarentees particularly as unjustly applied in denying protection to officers of the Court against judicial-backlash against attorneys, making a mockery of guarentees of due process.

QUESTIONS PRESENTED AND PETITIONER'S ARGUMENTS

BROADLY, MATTERS AT STAKE:

1) This repubnant matter raises substantial federal question(s) under due process: (a) the Appellate affirmance of the Appellate court's "admitted" lack of proximate cause(s), and (b) a compromise verdict, both inclusive of repeated denials of due process by both the trial and the Appellate courts.

The affirmed trial court's jury decision repugnantly adversely affects every attorney of the United States and the public that they serve, and gives rise to an "unjust, unreasonable, or plainly wrong" decision (Thompson v. City of Louisville, 362 US 199) The trial court's errors and erroneous jury verdict caused by those errors, and the Appellate Division's erroneous affirmance dangerously sets a clearly erroneous precedent on whether or not the legal profession is or is not a mere "farse" with regard to purported Constitutionally guarenteed protection of "officers of the Court", the trial court decision and Appelate affirmance making an absolute "sham" and mockery of purported Constitutional due process-jurisprudence guarentees here adversely denied to attorneys, tomorrow's case perhaps likewise adversely denying judges the same due process protection. The

present victim (Appellant) of blatant shocking denial of due process, denial admitted by the Appellant Court, is a patent-trademark-copyright litigation attorney who is a practicing member of three state bars, three federal courts of appeals and the United States Supreme Court, a former United States Naval Intelligence Officer cleared to top-secret, and a prior "security-Examiner" of the United States Patent & Trademark Office -- cleared by the F.B.I. to top-secret working on rockets, nuclear reactors, etc. for about three years, a registered Patent Attorney registered before the United States Patent and Trademark Office (registered on the basis of passing the civil service examination therefor), and having about twenty-six (26) years of legal experience with corporations and in private firm practice in patents, trademarks and copyrights.

JURY MISLED BY APPELL.-ADMITTED ERROR

2) "Plain constitutional error" here exists where a State Appellate Court (Certification [i.e. state-certiorary to the highest state court] denied by the NJ Supreme Court) has expressly "admitted" (in its final decision and order on the merits) a denial of due process (under the Fifth and Fourteenth Amendments) -- the New Jersey Appellate Court having admitted that there was factually a total absence of any evidence of proximate cause for damages assessed against Appellant (Petitioner) -- NJ Appellate Div. affirmation dated Mar. 7, 1986, page 3:

"... Plaintiff is correct that defendant's expert, Mr. Abrams, failed to state that all of these expenses were reasonable and necessary to defend the injunction proceedings."

and

"...Although the better practice may have been for the trial judge to have noted this deficiency at side-bar ...".

(Underlining added for emphasis)

Damages were assessed by a trial court jury that was erroneously "misled" by the trial court, the trial court judge having repeatedly erroneously overruled Appellant's objections to admission of a "statements" devoid of proximate cause (such as mere dollar-figures of alleged costs) in the absence of any supporting evidence of the specific named items or invoices naming those items for listed alleged costs; names or subject identifications were essential in order that a jury could evaluate the necessity and/or reasonableness thereof as to whether or not they proximately followed from alleged act(s) of Appellant (Petitioner) -- Garner v. Louisiana, 368 US 157, 163. Such generic, non-specific various statements (of Respondent) failing to itemize the nature of services, representing solely numerical alleged costs (admitted by the Appellate Court to not be a showing of proximate cause)

are insufficient also as a matter of New Jersey case-law -- Lamb v. Barbour, 188 Super. at 12, 16.

TRIAL RECORD REFUTES OTHER DAMAGES-BASIS

3) The Appellate Court did not attribute the jury's assessed damages to any other acts independent or apart from the acts for which there was no evidence of proximate cause. As a result of the jury erroneously following the erroneous lead of the trial judge and the jury thereby erroneously outrageously found and assessed damages against an attorney devoid of due process (proximate cause) and devoid of any other viable basis for such finding, and likewise ignored unrefuted other Appellant-services and accordingly did not find nor assess damages therefor against Respondent, and having no evidence of record to serve as a guide, the jury had no choice (in its legal ignorance) but to render a compromise verdict. The United States Supreme Court cannot tolerate total disregard and

abuse of constituionally guarenteed due process of law, particularly where it is reasonably apparent that such error was recognized and ignored by the State Appellate Court and particularly where the sensitive area of prejudicial treatment against attorneys is involved. Affirmance by the State appellant court of such disregard and abuse is fundamental constitutional error in affirmance of the outrageous finding of damages (devoid of proofs of proximate causes) against an attorney of competent experience and reputation who has dedicated his life and energies to serving the public as an officer of the Court. Rommel v. U.S. Steel Corp., 66 N.J. Super. 30, 48 (App. Div. 1961) held that a jury verdict that has resulted in a gross miscarriage of justice is basis for a new trial on all issues. A new trial limited to damages should be execised sparingly and with great caution and only when it is clear that the issue of liability

and damage are readily separable, and that the erroneous determination by the jury was as to damages only -- 66 N.J. Super. at 48. Such repugnant trial court jury decision arrived at devoid of and in the "admitted" absence of due process, directed against an attorney, may well be characterized as indescriminate attorney-persecution as a court's "backlash" directed against attorneys in general, resulting from the court's overly-zelous attempt to avoid prejudicial findings against the rights of the public that potentially might be victimized by mal practice by attorneys; this Supreme Court must exercise equal zelousness in preventing unjust and intolerable trampling of U.S. Constitutionally-guarenteed due process-rights of an attorney, such denial of due process very likely taking place merely because he is an attorney, as here where the Appellate Court found there to be no proximate cause, AND YET reuled against

Appellant on the basis of flimsy conjecture not supported by the evidence of the case. Whatever the reason, the public service attorney is victim of denial of due process and abuse of process, where as above-noted the Appellate Court admitted the absence of any evidence of proximate cause. Public policy mandates that the United States Supreme Court prevent indiscriminate permissive persecution of attorneys (by counterclaim) by a beligerant defendant-client (Respondent) sued for the value of Appellant-attorney's services, and additional attorney-persecution by the Appellate Court's indirect express-approval of acknowledged absence of due process, by the Appellate Court's erroneous upholding of damaged based exclusively on alleged acts for which no proximate causes-evidence was present. The Appellate Court's affirmance served thereby to approve the erroneous jury verdict based on denial of due process based

on denied evidence of proximate cause, and also thereby approved the jury's compromise verdict on the Appellate Court's conjectured possibilities that were contrary to evidence of the case. Thus, this matter involves both an "important question" and "doubtful determination" -- Williams v. Lee, 358 US 217, 218. The Appellate Court's refusal to reverse when faced with its admitted absence of proximate cause, represents blatant miscarriage of justice that undermines the very Constitutional safeguards that attorneys and courts strive to protect and uphold in the public interest, especially when such involves the very officers of the court! The Fourteenth Ammendment specifically restrains states against arbitrary taking of property by denial of due process -- see Hagar v. Reclamation Dist., 111 US 701 requiring state-observance of generic rules of jurisprudence, including protection of personal tangible and intangible property

rights -- Pearsall v. Great Northern R. R. Co. , 161 US 646. The relationship (proximate cause) between an attorney's alleged malpractice and its relationship to the client's specific alleged loss(es) must be affirmatively demonstrated and cannot be assumed -- Lamb... Supra at 16. A claimant (Respondent) in a malpractice action must affirmatively prove not only breach of duty of care but must also show by evidence, specifically the extent to which his alleged losses are proximately caused by the professional negligence -- Lamb v. Barbour 188 N.J. Super. 6, 12 (App. Div. 1982), the Appellate court having admitted that Respondent failed to show "any" proximate cause for the damages alleged to have been caused by the Appellant-attorney-copyright letter, that being the sole basis for assessed damages against the Appellant. As in Lamb v. Barbour case, Supra at 16, there is no indication that the expenses would

"not" have occured in ANY EVENT, even in the absence of alleged professional error, and that case also saying that such proximate cause must be demonstrated by "competent credible evidence which proves material fact" and canNOT be assumed nor mere uncorroborated testimonial allegations -- such being clearly insufficient. The burden of proving proximate cause clearly rests with the allegedly damaged Respondent -- Lamb... Supra at 12, and Hoppe v. Ranzini, 158 NJ Super. 158, 164 (App. Div. 1978).

TRIAL COURT & APPELLATE COURT ERRORS

4) The error of the trial judge in overruling Appellant's objections regarding lack of showing of proximate cause -- Trial Testimony of March 18, 1985, pp. 15-18:

Q " Mr. Kiss I show you a bill. ..."

Mr. Fox (Respondent's attorney): Your Honor, I request that this be marked Defense Exhibit --"

(After side-bar) Mr. Hough(Respondent

attorney): "Your Honor, I object on a couple of grounds here. Number one, the choice of Mr. Kiss to secure another attorney, while I was representing him, does not make me, per se, liable for such bills and nothing has been established to that effect. Once the attorney, myself is discharged, for him to choose other attorneys and pay them for their services, has no bearing and it's irrelevant for the --" (Interrupted by the Court) ...

"Mr. Hough: This doesn't relate to the prior advice, the prior advice would have come earlier." ..."The second thing was after I was completely terminated and he didnt testify that anything here, with regard to this, that it was for correcting what you have said, anything that I done (did) wrong. He said he acquired these other attorneys and he didn't say what for. The fact is that they were appearing at the preliminary hearing, which was scheduled, as I recall, February 29th and for anything subsequent to that

date. These bills would be my grounds." ... (Mr. Fox then made a statement, but no further evidence was given by Respondent.)

"THE COURT: If they go to the defense of the preliminary injunction, I'll allow them." -- noting that no evidence was presented to establish that, nor to overcome the prior objection(s) of Appellant.

Also, likewise on Testimony of March 18, 1985 page 22-27:

"Q Mr. Kiss, I show you this bill. ..."

"Mr. Fox: Your Honor, ... marked.."

(Mr. Hough objected): "... it has not been established ... that would be relevant to ... whether the advice had to do with the temporary restraining order." ... "... he has not established how this relates to ... the advice whatsoever, that occured prior. He hasn't established what the nature of the service was that was rendered by this attorney ." (Then further testimony, and further "objection")

"THE COURT: I'll overrule the objection ..." There were further Appellate objections on the same grounds, and overrulings -- on Mar. 18 transcript p. 30, & same error on p. 33 (no chance given to object). The erroneous overrulings of Appellant's objections to admission of mere "statements" of evidence devoid of itemizing what each specifically represented and how it caused alleged damage, prejudiced the jury in its thereby misled understanding; additionally, the judges overruling of Apellant's objections permitted the Respondent to include merely solely unidentified and unidentified cost-figures (summary-list statement) arising from also patent and trademark matters that the Respondent by his own testimony admitted occured long-prior to the also-admitted "sole" attorney-letter-copyright act from which damage(s) allegedly resulted -- Transcript of March 18, 1985,

cross-examination of Respondent, page 40:

"Q Were you ever billed by Mr. Hough, for any advice on copyright, using the word copyright?

"THE COURT: Was the word copyright on any bill?

"Q Prior to the one in the latter part of January.

"A Without reviewing the bills, I would have to say that the word copyright was not on the bills before the bill I received in January, with the opinion on copyright."

Also the Respondent actually admitted by-names numerous such such non-copyright prior acts (services by Appellant-attorney) admittedly included in Respondent's lists of alleged costs in the "statement" admitted over the objections of the Appellant. In the absence of the acts occuring prior to the admitted sole attorney-letter-copyright act that was admitted to be the SOLE basis for damages-liability of Appellant, the

unidentified dollar-costs of the "statement" were the sole guide to the jury, devoid of any evidence of proximate cause. And likewise for the other overruled objections. Accordingly, there did not exist any other valid basis on which the damages could have been assessed by the jury, other than the acts of which the Appellate Court admitted there was a total absence of evidence(s) of proximate causes. Therefore, the NJ Appellate Division's March 7, 1986 page 3 statement "Defendant limited his claim to the expenses of the Chicago show and the ensuing litigation." is NOT supported by the record and is a "gross" misstatement of the actual trial court-testimony of Respondent--in both direct Respondent testimony, and cross-examination of witness-Respondent-Kiss on March 18:

(a) transcript page 32:

"Q Would you please tell us what the expenses are on that itemized bill, please?

"A First of all, ..., cancelled checks, fees paid to Mr. Hough. ... Relating to advertising, ..." (Underlining added for emphasis.)

(b) transcript page 36:

"THE COURT: What kind of bills are covered in those bills?

"THE WITNESS: The videotape production, printing, artwork, etcetera." (Underlining added for emphasis)

"THE COURT: Okay, so when you add together the bills you've already paid, --

WITNESS: Right." ...

and

(c) page 37:

"THE WITNESS: "..., plus on the bottom there, there is a notation that Mr. Hough was paid approximately $2,800 or so." (Underlining added for emphasis.)

"THE COURT: And so your total expenses for which you're claiming a reimbursement of damages are the total of those two, ..."

(Underlining added for emphasis.)

"THE WITNESS: Yes, Sir."

The preceding testimony undermines the Appellate Court's unfounded allegation that the "statement" included solely matters subsequent to the Appellant-attorney-copyright letter from which damage(s) allegedly arose -- moreover, in addition to the above-quoted testimony of Respondent -- proving that prior attorney-bills of Appellant and other matters in-fact "were" erroneously and improperly "included" in the "statement, Respondent further admitted (regarding development costs and the like of the video prior to that Appellant-attorney-copyright letter) was long prior to that "letter" --

March 18, 1985 transcript, page 40:

"Q With regard to the machine that you have identified as a Time Machine, it was displayed at the Chicago convention on February 17th, 18th and 19th, or during that

period. When did you start working on that machine, Mr. Kiss?

"A Somplace in the vicinity of June.

"Q June, what year?

"A 1983.

Also see p.43, re completion in July 1983. Because of gross insufficiency of evidence as to proximate cause, this Court is compelled to grant Appellant's (Petitioner's) Petition for certiorari, and to reverse the lower court decision in full and to order a new trial -- Washington v. United States, 357 US 348, to thereby avoid a harsh result against Appellant -- Montana v. Kennedy, 366 US 308, 309.

RESPONDENT'S ADMISSION OF SOLE DAMAGE BASIS

5) The New Jersey Supreme Court has consistently held that in cases of inadequate verdicts, it should "invariably [be] set aside and a new trial should be directed to all issues." Rommell... 66 Super. (Supra) at 49. Because Respondent (Defendant-counterclaimant) admitted that the

sole ground for its counterclaim was an alleged Appellant-attorney copyright letter giving copyright-advice dated Jan. 30, 1984, which letter occured a mere few (eight) days before any conflict surfaced between Respondent and companies alleging copyright infringement by Respondent, i.e. only eight days before Respondent's receipt on Feb. 9, 1984 of a notice letter dated Feb. 7, 1984 of alleged copyright infringement, and also because Respondent also admitted that work on the video (machine-envolved) was underway in June 1983, more than six months before the above-noted Respondent-attorney-copyright letter dated Jan. 30, 1984, the Respondent's statement-list of alleged costs conclusively on-the-face-of-the-evidence (admissions) on the testimonial record above-noted prima facia erroneously included items having no apparent relationship to either copyright nor the Jan. 30, 1986

Appellate-attorney-copyright letter,

particularly where Respondent not until January or later made his first inquiry regarding securing exhibit space for the Feb.-show -- Transcript of Jan. 14, 1985:

(a) Page 112/testimoney (direct) of Respondent:

"... So, I mailed the letter dated January 30, 1984"

and

(b) Page 185:

"THE COURT: What is the date of the letter?

"MR. FOX (Respondent's attorney): February 7th (1984)"

and

(c) Page 161:(Respondent's cross-examination of Appellant)

"Q Would it be fair to say that at least by February 9, 1984, you were aware that Atari was threatening to sue Mr. Kiss for copyright infringement?

"A I was aware that Mr. -- well, the

answer is yes, yes."

and Transcript of Mar. 18, 1985, pages 41-42:

"THE COURT: He wants to know ... When did you reserve the booth there, to the best of your knowledge?

" A. I believe it was during the month of January, I called and expressed interest in exhibiting at the show."

The above-noted Respondent's statement-list of dollar-costs was admitted (by Respondent) to include video developement as well as to advertising, production, artwork, printing, development time for the show (no indication when the alleged development time occured, the admission inferring as early as June 1983), personal salaries, prior bills of Attorney Hough that had been paid long before the alleged damaging Respondent-attorney-copyright letter, personal salaries (when? and whose?) airlines and travel arrangements for the shows, hotel bills for the show, reimbursable expenses

from the show, photography done for the show including vidio-tape and printing for the show (no indication of "when" these things took place), and the admitted previously-paid bills to Appellant-attorney being $2,800 for non-copyright services ("copyright" matters admitted by Respondent to the sole matter relating to alleged damages to Respondent) relating to prior patents and trademarks services. Moreover, the Respondent admitted that he made reservation "during the month of January" for the machine being worked-on in June 1983 -- Appellant's first copyright advice occuring on January 30, 1984 above-noted, admitted by Respondent to be the first copyright advice; all of this prima facia evidenceing Respondents "lack" of reliance on "any" copyright-advice from Appellant. The Appellant Court did not assert there to be any basis for damages assessed against Appellant "other than" those for which NO evidence on proximate cause was

given. Moreover, Respondent did not offer any evidence directed to refute any specific one or more patent and/or trademarkmark services performed by Appellant -- the Appellant suing for the value of such services; additionally, Respondent did not deny nor refute authorized services, affirmative defensed, FR 12 motions and argument, counterclaims, etc. which Respondent authorized Appellant to perform, authorized "after" the Chicago services by Appellant and long "after" the alleged damaging Appellant-attorney-copyright letter and long "after" Respondent had engaged additional attorneys -- these services being a part of what Appellant sued for the value of services rendered. Accordingly, failure to find in favor of such contract damages, , taken together with the sole jury-finding of damages against Appellant conclusively evidences the fact of there being a "compromise" verdict -- such view being reinforced as a result of the jury having

intermittently voiced difficulty at arriving at a decision over a prolonged period of deliberation, taken together with the foreman of the jury thereafter stating (while reporting the verdict to the trial court judge) that he had no idea as to how the other jurors arrived at their computation of damages, assessed solely against the Appellant. By New Jersey law, as above-noted, a "compromise verdict" should be set aside, and in the present case -- no finding having been made for Appllant's unrefuted contract-services, such inadequate verdict must be retried on all issues because of the real possibility of compromise -- Shwartz v. North Jersey Building Contractors Corp., 38 NJ 9 (1962); Kopec v. Kakowsiky, 34 NJ 243 (1961); Greenberg v. Stanley, 30 NJ 45 (1959).

APPELLANT'S TIMELY TRIAL OBJECTIONS OVERRULED

6) Appellant repeatedly objected at trial to admission of mere summary-statements on various matters, such as mere non-specific

statements of mere solely-disclosed dollar figures of alleged expenses, totally devoid of any corroborative supporting "foundation" evidence, and Appellant's objections thereto were repeatedly erroneously overruled by the trial judge, whereby Appellant was erroneously denied opportunity to confront proximate cause issue(s) as to specific linking-evidence(s) (if any) as to "necessity" and "reasonableness" of such alleged expenses, and whether such alleged expenses factually did or did not result from Appellant's allegedly-damaging attorney-copyright letter (which during cross-examination the Respondent admitted to be the sole basis of allegedliability for alleged damages -- and the Appellate Court not stating nor inferring otherwise).

COMPROMISE VERDICT -- ERRONEOUS JURY INSTRUCTION

7) The trial court judge compounded error by instructing the jury to rely on the (mere) above-noted Respondent's various statements

(admitted over objections) such as the statement of alleged expenses , thereby leading the jury to a "compromise verdict"; that compromise verdict was moreover prejudicially influenced by the "inflated figures" that (as above-evidenced) improperly/erroneously included numerous alleged costs -- even including patent and trademark bills previously paid. The "inflated figures" (of the Respondent's dollar-costs statements) and the resulting compromise verdict, as well included invalid/illegal/erroneous-figure arrising from events "subsequent" to the temporaty restraining order-hearing -- the sole hearing at which Appellant-attorney argued. Moreover, the services at that hearing were not refuted as to preparation therefor and the attending and arguing -- all of which Appellant testified. Even though Appellant testified thereto and submitted the summary of such bills -- the court, over Appellant's

objectionss, not permitting the admission of the individual bills, the trial court judge thereby denied the jury any discernible basis for differentiating between charges for patent and trademarks, and those for various copyright matters and/or the sole nominal invoiced-charge for the above-noted Appellant-attorney-copyright letter -- thereby compeling the jury to merely "guess" and "compromise", in arriving at its assessed damages against Appellant. The jury was thereby placed into an evidenciary-vacuum forced upon them by the trial judge.

Appellant's summary-list was not objected-to by Respondent. Thus, the jury merely made reference to Respondent's inflated figures and to the modes figures of Appellant, and moreover reasonably assumed Appellant's figures all to relate to the same matter(s) of damages as those of Respondent's figures; and after prolonged jury debate and argument and deliberation among themselves, and also

the judge refusing to give further guidence requested by the jury, the jury "struck an average" which the jury-forman profess to be beyond his understanding as to how the other jurors arrived at the dollar figure of damages assessed against Appellant!

EXPENSES EVIDENCE -- ERRONEOUS JURY CHARGE

8) The jury was further misled by the trial court judge who further compounded error by instructing the jury to rely on the (mere) Respondent's alleged-costs summary "statement" of alleged expenses -- which as above-noted was admitted over repeated objections of the Appellant.

March 18, 1985 - testimony, page 168 in the Judges-charge:

"... the Defendants are entitled to a verdict for the damages which proximately resulted from such negligent conduct, over the Plaintiff and in that respect, evidence has been presented with respect to legal fees and other expenses incurred by the Defendants

in connection with the matters that they received advice upon. from the Plaintiff, Mr. Hough. And there is a statement in the evidence which will again be with you in the jury room, which indicates what his damages are, whate the Defendant's damages are and if you're satisfied that they are reasonable, then you can accept them. ..."

This additional error led the jury to ignore proximate cause because there being no proximate cause evidence of record/admitted that might shed light on what proximately followed from the

Appellant-attorney-copyright letter, in the absence of which, "what was reasonable and/or necessary" could have no discernible meaning nor resolution. Accordingly, the jury was compelled to arrive at a compromise verdict, having no evidence on proximate cause that would permit them to do otherwise. Accordingly, the jury verdict was obviously prejudicially and unjustly damaging against

Appellant.

APPELL. COURT'S IRRELEVANT ERRONEOUS CONJECTUR
9) The Appellate Court "begged-the-question" by conjecturing that the Expert witness could have been called upon to present proximate cause-evidence -- the fact being: (a) the Expert witness was NOT qualified in that area, and of equal importance -- (b) FACTUALLY (what actually happened at trial) the Expert witness did NOT so-testify -- as recognized by the Appellate Court per above-quoted Mar. 7, 1986, page 3 of the Appellate Court affirmance, found in preceding paragraph # 2)-above; see Gorga v. Indiana and Michigan Electric Do, 338 F2d 623 (6th Cir. 1964). Thus, the Appellate Court, while admitting that no competent evidence existed as to proximate cause, begged the question as totally erroneous verdict and trial on the face of the record.

APP.CRT. NON-RESPONSIVE TO APPELLANT'S ARGUMENT
10) The Appellate Court likewise ignored

above-noted evidence and argument re the compromise verdict --not confronting the facts that in absence of competent evidence(s) of proximate cause on the several different evidentiary statments admitted over Respondent's above-quoted objections (quoted in preceding paragraph # 4)-above), and the jury's total deprivation of any proximate-cause-evidence guide as to what various alleged dollar-figures represented in terms of or with regard to specific services of either the Appellant and/or the Respondent, the jury could not relate such figures to testimony given at trial, particularly with regard to alleged damaging copyright-act (Appelant-attorney-copyright letter, above-noted). The Court ignored such as having any relationship to the prolonged deliberation, request for further instructions, and confusion as evidence by the jury forman's statement of total lack of his understanding of how other jurors arrived

at the dollar-figure of damages assessed against Appellant. The Appellant Court merely made irrelevant non-responsive comment that "all" jurors were not required to agree, incorrectly infering that lack of "understanding" of one juror had no bearing, that clearly not being responsive to the heart of the Appellant's above-noted arguments. Reversal and a new trial in total is clearly required in light of the Court's repeated statements within hearing of the jury, that the admitted evidence was sufficient for a showing of damages incurred by the Defendant/Respondent -- inferring to the jury that the jury may assume the mere various statements (admitted over objections) were sufficient standing-alone, and the fact that the trial court denied entry of Appellant's evidence which would make discernible the diffence between billings in patents and trademarks, versus those in copyright, and make it possible for the jury

to ascertain whether authorized additional services by Appellant, authorized subsequent to the allegedly-damaging Appellant-attorney-copyright letter, resulted in the Respondent becoming liable by having authorized the same in light of already being aware of developments subsequent to the attorney-copyright letter, and also whether the subsequent services by Appellant, if not done by Appellant, would have had to be done as mere additional or new services by some other attorney, and also whether the services the other attorneys caused (by their approach) the preliminary injunction to be entered -- solely a temporary restraining order having been entered during the employment and services of Appellant, for example.

SUMMARY/CONCLUSION

11) The repeated denials by the trial court, of due process, and trial court errors inevitably resulting in a jury verdict based

on damages assumed to arise from proximate cause devoid of any evidence on proximate cause and resulting in an obvious "compromise verdict", against an attorney legitimately suing for the value of services rendered in good faith, require this Court to grant this petition and to grant certiorari reversing the appellate and trial courts and ordering a new trial on all matters. Favorable consideration is requested by Appellant Attorney who relies on this Court to maintain the faith and credulence in the American system of jurisprudence affording proper constitutional safeguards to both attorney and their clients.

William T. Hough

William T. Hough, Esq.
Attorney for Petitioner
(& Pro Se)

APPENDIX 1)

COPY

NOT FOR PUBLICATION WITHOUT
THE APPROVAL OF THE
COMMITTEE ON OPINIONS

SUPERIOR COURT OF NEW JEERSEY
APPELLATE DIVISION
A-39979-84T1

WILLIAM T. HOUGH, ESQ.,
Plaintiff-Appellant,

v.

WILLIAM DAVID KISS, ET AL.
Defendant-Respondent

Submitted: February 19, 1986
Decided Mar 7 1986

Before Judges Dreier and Bilder.

On Appeal from Superior Court of New Jersey, LAW dIVISION, sOMERSET cOUNTY.

lANE & pERL,ATTORNEYS FOR APPELLANT (rONALD 1. pERL, ON THE BRIEF).

Wilson & Kiss, attorneys for respondent (Robert J.Kiss, on the brief).

PER CURIAM.

Plaintiff has appealed from a judgment entered after an adverse jury verdict on his claim for a legal fee for services rendered as a patent attorney. He also has appealed from the jury's damages award of $10,856.90 entered on defendant's legal malpractice counterclaim. Although defendant had moved before the trial court to amend the judgment to award his full claim of $54,186.88 or for a new trial on damages only, he has not appealed either the judgment or the denial of his motions.

Plaintiff has raised two points on

this appeal. First he claims that the jury returned a copmpromise verdict and that the court improperly accepted the verdict even though it was not unanimous. The record clearly shows that the verdict was agreed upon by five of the six jurors. Plaintiff's argument that the verdict should be rejected since the foreman dissented and stated that he could not understand the basis of the others' determination raises an irrelevancy. Such a verdict has "the same force and effect as though it had been rendered by the entire jury." N.J.S.A. 2A:80-2. See also R. 1:8-2(c).

The verdict against plaintiff on his affirmative claim effectively disposed of his contentions that he was entitled to any legal fee. Also, the damage verdict for less that 20% of defendant's counterclaim may have had a

variety of bases other than the improper compromise alleged by plaintiff. See Isenberg Co. v. Kent, 7 N.J.Misc. 1089, 1090 (Sup. Ct. 1929). The jury was not required to make specific determinations concerning the separate damage claims of defendant; the general verdict was sufficient. N.J.S.A. 2A:80-1.

Plaintiff's second point is that defendant failed to prove a proper causal relationship between plaintiff's alleged malpractice and the various items of damage. The malpractice allegedly caused defendant to attempt to market his invention, an electric switching device that permits a number of computer games to be played on a single machine, at a Chicago Trade Show. Defendant limited his claim to the expenses of the Chicago show and the ensuing litigation. Those expen ses

flowing from defendant's inability to show and market his product, and all of the reasonable litigation expenses, were properly chargeable to plaintiff.

Plaintiff urges that the charges for the multiple attorneys retained by defendant to defend the Illinois injunction proceedings were excessive. This may be so, but the jury did not award defendant even a major fraction of these charges. Plaintiff is correct that defendant's expert Mr. Abrams failed to state that all these expenses were reasonable and nesessary to defend the injunction proceeding. But it is equally clear that even laymen could discern that some expenses needed to have been incurred. Although the better practice may have been for the trial judge to have noted this deficiency at side-bar so that the question could have been posed to the expert, even in

the absence of such a question we have no problem in sustaining a verdict of $10,856.90 in view of the nature of the services rendered by defendant's new attorneys, the emergency call for such services and the apparent reasonableness of the fees charged.

Affirmed.

I hereby certify that the foregoing is a true copy of the original on file in my office.

Elizabeth McLaughlin
Clerk

APPENDIX 2)A

COPY

A-03979-84 Ti

ORDER ON MOTIONS

WILLIAM T. HOUGH, ESQS.

V.

WILLIAM DAVID KISS, ET AL.,

SUPERIOR COURT OF NEW JERSEY

APPELLATE DIVISION

DOCKET NO. A-03979-84 T1

MOTION NO. m-029890-85

BEFORE PART E

JUDGES: DREIER

BUILDER

FILED

APPELATE DIVISION

APR 3, 1986

REC'D

APPELLATE DIVISION

APR 3 1986

MOVING PAPERS FILED MARCH 18, 1986

DATE SUBMITTED TO COURT MARCH 24, 1988

DATE DECIDED March 27, 1986

ORDER

THIS MATTER HAVING BEEN DULY PRESENTED TO THE COURT, IT IS HEREBY ORDERED AS FOLLOWS: [DENIED]

X

FOR THE COURT:

WILLIAM A. DREIER

WIILIAM A. DREIER J.A.D.

WITNESS, THE HONORABLE WILLIAM A. DREIER, JUDGE OF PART E, SUPERIOR COURT OF NEW JERSEY, APPELLATE DISIVION, THIS 27th DAY OF MARCH 1986.

Eliazbeth McLaughin

CLERK OF THE

APPELLATE DIVISION

APPENDIX 2)B

COPY

SUPREME COURT O F NEW JERSEY

C-45 SEPTEMBER TERM 1986

25,556

WILLIAM T. HOUGH, ESQ.,

Plaintiff-Petitioner,

vs.

WILLIAM DAVID KISS, et al.

Defendants-Respondents.

FILED

SUPREME COURT

SEP 9 1986

To the Appellate Division, Superior Court:

A petition for certification of the judgment in A-3979-84T1 having been submitted to this Court, and the Court having considered the same;

It is ORDERED that the petition for certification is denied with costs.

WITNESS, the Honorable Robert L. Clifford, Presiding Justice, at Trenton, this 5th day of September, 1986.

Stephen Lenard(?spelling?)
CLERK OF THE SUPREME COURT

APPENDIX 3)

COPY

CARTER, CARTER, VAN RENSSELAE & SWENSON
A Professional Corporation
106 Mine Brook Road
Bernardsville, New Jersey 07924
(201) 766-6616
Attorneys for Defendants, Counter-
claimants and Third-Party Plaintiffs

----------X

WILLIAM T. HOUGH, ESQ.,

Plaintiff,

v.

WILLIAM DAVID KISS, et al.,

Defendants,

and

WILLIAM DAVID KISS et al.

Third-Party Plaintiffs,

v.

WILLIAM HOUGH, PROFESSIONAL
CORPORATION,

Third-Party Defendant.

----------X

SUPERIOR COURT
OF NEW JERSEY
LAW DIVISION -
SOMERSET COUNTY

Docket No.L-028349-84

JUDGMENT FOR DEFENDANT
IN JURY ACTION

This action came on for trial before the Court and a jury on March 13, 1985, and the causes having been heard and submitted to the jury and the jury having rendered a verdict in favor of defendant and returned a verdict in favor of defendant's counterclaim for malpractice and awarded defendant damages in the amount of $10,856.90.

It is on this 12tgh day of April, 1985, ordered that judgment be entered faor the defendant, WILLIAM DAVID KISS, against the plaintiff, WILLIAM T. HOUGH, in the amount of $10,856.90, together with costs to be taxed.

Michael R. Imbrione

J.S.C

APPENDIX 4)A

.....

Q Did you receive a bill from John Karney and associates?

A Yes, I did.

MR. FOX: Your Honor, I request that this be marked Defense Exhibit Four, please.

THE COURT: D-4 for identification.

(Exhibit D-4 for Identificationm, bill.)

MR. HOUGH: Your Honor, I must object to the admission.

THE COURT: He hasnt offered it

[new page 16]

yet.

MR. HOUGH: Fine.

Q Mr. Kiss, I show you a bill. Did you receive this bill from John P.

Karney Associates for legal fees in connection with the defense, after you had discharged your attorney, Mr. Hough?

A. It was also during the period that I did have Mr. Hough, as counsel. At this point, i felt totally unsure of myself and wanted to compare what one attorney had said with another. After all, I'm just a layman and I don't hold out any claims of being expert in any kind of law. So, yes, this is his bill and -- But, to correct what you had said, it also encompasses the time that Mr. Hough did represent me, before I discharged him.

MR. FOX: Your Honor, I request that this be marked Defense Exhibit --

THE COURT: Sidebar.

(Whereupon the following took place at sidebar.)

MR.HOUGH: Your Honor, I object to a couple of grounds

here. Nyumber one, the choice of Mr. Kiss to secure another attorney, while I was representing him, does not make me, per se, liable for such bills and nothing has been established to that effect. OPnce the attorney, myself is discharged, for him to choose other attorney and pay them for their services has no bearing and it's irrelevant for the --

THE COURT: .....

MR. HOUGH: No, I'm saying that the second attorneys were retained for argumentation and prosecuting the case for the preliminary injunction hearing was after I was out. The only thing that had Plaintiff consulted with regard for this was for the temporary restraining order.

.....

APPENDIX 4)B

.....

THE WITNESS: Yes, Sir, plus on the bottom there, there is a notation that Mr. Hough was paid approximately $2,800 or so.

THE COURT: And so your total expenses for which you're claiming a reimbursement of damages are the total of those two, which comes to $56,986.88?

THE WITNESS: Yes, Sir:

.....

APPENDIX 4)C

that the Kings were consultants to the Government on video and performances and this type of area. I was questioning the copyright law and apparently how it applies to what I was doing. The worked with, Mr. lydon and Mr. Karney, in New York and Mr. Hough, ikn Basing Ridge, to determine exactly what the sequence of events was leading up to the temporary restraining order, preparing a competent defense for the injunction hearing that was to come off the end of February and the settlement, the beginning of March, that wole period.

Q Mr. Kiss, I believe that with regard to the adding machine listing here, which is Defendant's

Exhibit Seven, you stated that it includes bills of Mr. Hough?

A Yes, Sir, I did.

Q When you stated it includes bills of Mr. Hough, does that mean invoices, or checks paid?

A Checks paid.

.....

APPENDIX 4)D

MR. FOX: Your Honor, I request this be marked as Defense Exhibit Number Five.

THE COURT: D-5 for Identification. (Exhibit D-5 for Identification, bill.)

A This was also directly related to the advice Mr. Hough had given me and the action brought by Bally and Atari.

Q How can you tell you received it?

A Well, I recognize the bill, I know that the dollar amount, from Mr. Lydon, was between seven and eight thousand dollars. Because I reduced it somewhat, since then and its addressed to me. And I recognize the bill.

MR. FOX: Yoour Honor, I

request this be marked Defense Exhibit Five.

THE COURT: Any objection, Mr. Hough?

MR. HOUGH: Yes, your Honor.

THE COURT: Sidebar.

(Whereupon the following took place at sidebar.)

MR. HOUGH: Your Honor, I object to the admission of this, on the grounds that it has not been established when Mr.

(new page: Kiss-direct --- 23)

Lydon was brought into the case, or when he met Mr. Kiss and that would be relevant with regard to whether the advice had to do with the temporary restraining order.

THE COURT: What did you find out when he first had

dealings with the law firm and what period the bill covers?

(Whereu,pon the following took place in the presence of the jury.)

Q Mr. Kiss, when did you first have dealings with Pierce, Lydon, Griffin and Montana.

A. The show opened on Friday of the week of the show, and S.I., Showcase International, which was when we were served with the papers and when Mr.Hough represented me in court, the day after.

THE COURT: Give us the date.

A I believe it was the 17ty, 18th and 19th, or the 19th, 20th and 21st.

THE COURT: Of?

A Of February, 1984. It was a Friday and Saturday and Syunday show. If I had reference to a calendar, I

could be more precise.

Q Was subsequent work performed lby that firm on your behalf, in tghe preliminary injunction, in Chicago?

A Yes.

[new page/ Kiss-direct ------- 24]

MR. FOX: Your Honor, I ask this be marked Defense Exhibit --

THE COURT: Find out how long they represented him.

Q How long did they represent you?

A Through approximately the middle of March.

MR. HOUGH: Your Honor, I object to the admission.

THE COURT: For the same reasons you've given me, or additional reasons?

MR. HOUGH: I would say it would bear on the same reasons. But

they had no --

THE COURT: For the same reasons, I can ryule on, if you want to give additional reasons, --

MR. HOUGH: aDDITIONAL.

(whereupon the following took place at sidebar.)

MR. HOUGH: I believe, you'll forgive me, if it is additional, I think it is. That the testimony and there's been question now, does not go prior to the time of the preliminary injunction and accordingly, related to things subsequent to that time --

[new page/ Kiss-direct -------- 25]

THE COURT: Prior?

MR. HOUGH: I mean if the temporaty restraining order, it does not go to my time prior to that, so he

has not established any basis for admission of this.

THE COURT: Well, the problems would arise after the preliminary injunction was issued, not before.

MR. HOUGH: Yes, but he has not established how this relates to anything with regard to the advice whatsoever, that occurred prior. He hasn't established what the nature of the se4rvice was that was rendered by this attorney.

THE COURT: Why don't you see if you can find out what he did, did he bo back into court, or whatever it was.

MR. HOUGH: THANK YOU.

(Whereupon the following took place in the presence of thejury.)

Q Mr. Kiss, what services did Pierce, Lydon, Griffin and Montana

perform for you?

A. The Saturday of the show, which was the day after I was served and the preliminary hearing in Chicago, I met Mr. Matt Lydon, I was introduced to him by Mr. King, Sr. and

[new page/ Kiss-direct ---------- 26]

Mr. King explained to me a little bit about Mr. Lydon's background. This was before the show opened that day. Mr. lydon introduced himself, explained to me a little bit of his backgroundm,his experience, his firm, his rate, his hourly rate and asked me if I was ibnterested in representation. Actuall, that was the whoe reason for the meeting.

THE COURT: The question is, what did they do for you?a Mr. Lydon, I'm sorryh, your Honor. Mr.

Lyhdon was invaluable to me in maintaining my existence, through the balance of the show, being there. Atari tried to get me evicted, they tried to get the machines pulled out of there, thrown out ofthere. He prevented it, he instructed us what to say and what not to say. What we could and could not legally say and what we could legally do. In essence, he made the show worthwhile for us.

Q Were any documents prepared.

A Yes.

MR. HOUGH: Pardon, what's the question?

Q Were documents prepared?

A Q Yes.

Q Were these documents used in the preliminary injunction, excuse me, in the injunction hearing in Chicago?

A They were use in the hearing which was later on in

the month, or the bveginning of March, I forget. It was originally scheduled for the end of February, but Mr.Krupka who was the attorney representing Atari, was going to be on vacation and it was then moved to the first week of March. My Lydon worked with me on preparing documents to be used at that hearing and also helped us prepare documents at the booth for enabling us to at least gather name and address information from attendees, who went by the booth and instructed us not to drape the machines and post the notices, so we could at least get a little bit of attention from the show and you know, at least get some business cards from the people that were walking by the booth.

Q Was Mr. Lydon your representation from your hearing in Chicago?

A Absolutely.

MR. FOX: Your Honor, I request this be marked Defense Exhibit Five, in evidence.

Mr. HOUGH: Your Honor, I object on the same grounds. I feel they have not been sufficiently met to submit these as evidence.

THE COURT: I'll overrule the objection and allow D-5 in, Evidence. (Exhibit D-5 was marked in evidence, bill.)

APPENDIX 4)E

APPENDIX 4)F

...

MR. FOX: Your Honor, I request this be marked D-6 in Evidence.

MR. HOUGH: Objection, your Honor, on the same grounds that have been expressed previously.

THE COURT: I'll overrule for the same reasons and allow into evidence as D-6.

MR. HOUGH: Your Honor, for purposes of your overruling this, I make a point of exception.

THE COURT: It's automatically noticed.

.....

.....

Q Would you please tell us what expenses are on that itenmized bill, please?

A First of all, let me identify that this is a photostatic copy of a list of adding machine tapes detailing cancelled checks, lawyer's fees, invoices withoyut cancelled checks and fees paid to Mr. Hough. Relating to advertising, development time for the show, personal salaries for the show, airlines and travel arrangements for the show, hotel bills for the show,, reimbursable expenses from the show, photograph that I had done for the show including the video-tape I had prepared and printing I had done for the show and bills from Mr. Hough.

APPENDIX 4)G

would you like to have the question repeated?

THE COURT: Well, Mr. Hough, whether he's going outside is for the Court and the jury and not for you to determine.

MR. HOUGH: Your Honor, it's nonresponsive.

THE COURT: Well, rehprase the question again, Mr. Hough.

Q Were you ever billed by Mr. Hough, for any advice on copyright, using the word copyright?

THE COURT: Was the word copyright on any bill?

Q Prior to the one in the latter part of January.

A without reviewing the bills, I

would have to say that the word copyright was not on the bills before the bill I received in January, with the opinion on copyright.

MR.HOUGH: That answers the question, your Honor.

Q With regard to the machine that you have identified as a Time Machine, it was displayed at the Chicago convention on February 17th, 18th and 19th, or during that period. When did you start working on that machine, Mr. Kiss?

A Someplace in the vicinity of June.

[new page/ Kiss-cross] --- 40

Q June, what year?

A 1983. .....

APPENDIX 4)H

.....

Q All right. When did you have the machine, Time Machine ready for demonstration, far as operation?

A Which version of it?

Q Any version: I'm referring to the Time Machine that was exhibited.

A July, 1983.

Q In July, 1983?

A Un-huh.

.....

APPENDIX 4)I

(Letter marked as Exhibit D-1 for identification.)

Q Mr. Hough, this is in response to a letter that Mr. Kiss had received from Atari?

A May I see it? I don't understand what you said.

Q Would it be fair to say that at least by February 9, 1984, you were aware that Atari was threatening to sue Mr. Kiss for copyright infringement?

A I was aware that Mr. -- Well, the answer is yess, yes.

.....

APPENDIX 4)J

the Defendants are entitled to a verdict for the damages which proximately resulted from such negligent conduct, over the Plaintiff and in that respect, evidence has been presented with respect to legal fees and other expenses incurred by the Defendants in connection with the matters that they received advice upon, from the Plaintiff,Mr. Hough. And there is a statement in the evidence which will again be with you in the jury room, which indicates what his damages are, what the Defendants's damages are and if you're satisfied that they are reasonable, then you can accept them. If you'r satisfied that they are not, and you may not, then you may find that

you're not satisfied with the damages and find no damages, or you can determine that some of them are reasonable and some are not.

Your verdict could be simply for those damages which you feel are reasonable and proximately flow from the malpractice of the Plaintiff. .....

APPENDIX 4)K

see it.

MR. FOX: It hasn't been marked yet, Judge.

THE COURT: What is the date of the letter?

MR. FOX: February 7th.

.....